REMARKS

In the July 31, 2003 Office Action, claims 1-5, 7, 8, 10-17, 19, and 20 stand rejected in view of prior art, while claims 6, 9, and 18 were indicated as containing allowable subject matter. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the July 31, 2003 Office Action, Applicant has amended claims 1 and 12 as indicated above. Thus, claims 1-20 are pending, with claims 1, 4, and 12 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Interview Summary

On October 20, 2003, the undersigned conducted a personal interview with Examiner Gibson, who is in charge of the above-identified patent application. Applicant wishes to thank Examiner Gibson for the opportunity to discuss the above-identified patent application.

During the interview, claims 1, 4, and 12 were discussed. It was agreed that claim 1 as amended to cover the embodiment where only the weight of the hoppers in the second group is used in the combination calculation would be allowable over the prior art. Claim 4 has been agreed as being allowable based on Applicant's remarks filed on July 11, 2003. It has also been agreed that claim 12 would be allowable if amended to include limitation that the weighing machine will be carried out on a group of weighing hoppers and a second group of hoppers may be discharged or not based on a weight independent criteria. It has further been agreed that the "multiple shift" discussed in column 5, lines 1-13 of the Douglas patent merely means that empty hoppers are not included in the calculation.

Rejections - 35 U.S.C. § 102

In paragraphs 2-7 of the Office Action, claims 1-5, 7, 8, 12-17, 19, and 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,813,503 to Douglas ("the Douglas patent"). Claims 1-3 and 8 stand rejected as being anticipated by Japanese Patent Application Publication 05-079890 to Yoshida Mitsuru ("the Yoshida patent"). Claims 1-3 are rejected as being anticipated by U.S. Patent No. 4,844,190 to Mikami ("the Mikami patent"). Claims 1-3, 12, and 13 are rejected as being anticipated by U.S. Patent No. 4,678,046 to Mosher ("the Mosher patent"). Claim 1 is rejected as being anticipated by the British Patent Application Publication No. 2,147,111 to Pringle ("the Pringle patent"). In response, Applicant has amended independent claims 1 and 12 to clearly define the present invention over the prior art of record.

Independent Claim 1

In particular, independent claim 1 has been amended to recite that the selection means conducts combination calculation ***only*** with the weights of the hoppers of the second group, ***not*** including the hoppers of the first group. Clearly, this structure is ***not*** disclosed or suggested by or any other prior art of record.

Regarding the Douglas patent, it is clearly indicated in column 3, lines 7-12 that the controller conducts the combination calculation based on both the first and second product weighing scales. This is clearly contrary to the requirement of now-amended claim 1. It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, the Douglas patent does not disclose or suggest the arrangement of claim 1.

Regarding the Yoshida patent, as indicated in the abstract, the combined-weight measuring apparatus of the Yoshida patent weighs each of the articles W1 and W2 separately,

and combines them at a predetermined ratio. In other words, the Yoshida necessarily conducts combination calculation with both articles W1 and W2, even though the articles W1 and W2 are weighed separately initially. This is clearly contrary to the requirement of now-amended claim 1. Therefore, the Yoshida patent does not disclose or suggest the arrangement of claim 1.

The Mikami patent discloses a combinational weigher that performs two or more mutually independent combinational weighing operations. Although the combinational weigher of the Mikami patent is capable of handling articles of different kinds as described in the abstract, different kinds of articles are used in different combinational weighing operations. Since the combinational weigher of the Mikami patent performs multiple combinational weighing operations in a ***mutually independent*** manner, different kinds of articles used in different combinational weighing operations are ***not*** mixed together. In other words, to the extend that each of the combinational weighing operations performed by the combinational weigher of the Mikami patent is concerned, there is no division of hoppers into first and second groups. Accordingly, the Mikami patent does not disclose or suggest the arrangement of claim 1.

Regarding the Mosher patent, as indicated in the abstract, the combination weighing apparatus of the Mosher patent weighs each of the first and second types of articles separately, and combines them such that the total weight is approximately the predetermined target weight. In other words, the Mosher patent necessarily conducts combination calculation with both types of the articles, even though the first and second types of articles are weighed separately initially. This is clearly contrary to the requirement of now-amended claim 1. Therefore, the Mosher patent does not disclose or suggest the arrangement of claim 1.

The Pringle patent does not disclose combination calculation as required by now-amended claim 1. The combination weighing machine of the Pringle patent separates articles into hoppers 14i and hoppers 14_1, the articles in the latter having a predetermined volume. The articles in the hoppers 14_1 will be discharged without going through combination calculation if its weight is greater than the reference weight. Combination calculation is performed with the articles in the hoppers 14i and the hoppers 14_1 only when the weight of the articles in the hoppers 14i is not greater than the reference weight. *See* abstract, page 2, line 65-page 3, line 27. Thus, the Pringle patent does not disclose or suggest combination calculation with only either of the hoppers 14i or the hoppers 14_1, as required by claim 1. Therefore, the Pringle patent does not disclose or suggest the arrangement of now-amended claim 1.

Independent Claim 12

Claim 12 has been amended to recite that, in the first selection mode, the controller conducts the combination calculation and selects hoppers from all of the hoppers except for those hoppers to which the second criterion is applied, such that the total weight of articles in selected hoppers based on the first criterion is within the predetermined weight range. In the first selection mode, a hopper may or may not be selected based on the second criterion. The total weight of articles in selected hoppers based on the first criterion is within the predetermined weight range whether or not a hopper is selected based on the second criterion. In the second selection mode, hoppers are selected from all of the hoppers, regardless of whether the second criterion is applicable. Applicant believes that the arrangement of claim 12 as now amended is not disclosed or suggested by any of the prior art of record.

Regarding the Douglas patent, the Office Action asserts that column 5, lines 1-13 describes the switching between the first and second selection modes. Applicant believes,

however, that the "multiple shift" discussed in the Douglas patent is irrelevant to the switching of modes required by claim 12. In other words, the switching between the first and second selection modes as defined in claim 12 concerns whether the hoppers to which the second criterion applies are included in the combination calculation. On the other hand, the multiple shift discussed in the Douglas patent relates to which of the same type of hoppers the articles should be discharged from. As discussed in column 3, line 65-column 4, line 11, the combinational weigher of the Douglas patent always performs combinational calculation based on both minor constituents in the fill-to-cutoff weigher 34 and major constituents in the weigher 13. Therefore, the "multiple shift" operation of the Douglas patent concerns which hoppers among the minor constituent hoppers (or the major constituent hoppers) the articles should be discharged from, ***not*** whether the minor constituent should be included in the combination calculation at all. Thus, Applicant believes that the Douglas patent does not disclose or suggest the arrangement of claim 12.

Regarding the Yoshida patent, as indicated in the abstract, the combined-weight measuring apparatus of the Yoshida patent weighs each of the articles W1 and W2 separately, and combines them at a predetermined ratio. In other words, the Yoshida necessarily conducts combination calculation with both articles W1 and W2, even though the articles W1 and W2 are weighed separately initially. This is contrary to the requirement of claim 12, since claim 12 requires that the selection mean be able to conduct combination calculation with the hoppers of the major constituents ***alone*** when the selection means is in the first selection mode. Therefore, the Yoshida patent does not disclose or suggest the arrangements of claim 12.

Regarding the Mosher patent, as discussed above, the combination weighing apparatus of the Mosher patent weighs each of the first and second types of articles separately,

and combines them such that the total weight is approximately the predetermined target weight. In other words, the Mosher patent necessarily conducts combination calculation with both of the first and second types of articles, even though they are weighed separately initially. This is contrary to the requirement of claim 12, since claim 12 requires that the controller be able to conduct combination calculation with the hoppers of the major constituents ***alone*** when the controller is in the first selection mode. Therefore, the Mosher patent does not disclose or suggest the arrangement of claim 12.

Dependent Claims 2-3, 7, 8, 13-17, 19, and 20

Regarding dependent claims 2-3, 7, 8, 13-17, 19, and 20, they depend from independent claims 1 and 12, and are therefore narrower. Since independent claims 1 and 12 are believed to be allowable, Applicant also believes that claims 2-3, 7, 8, 13-17, 19, and 20 are allowable over the prior art of record.

Applicant respectfully requests withdrawal of the rejections.

Rejections - 35 U.S.C. § 103

In paragraphs 8-9 of the Office Action, claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Douglas patent in view of U.S. Patent No. 5,753,867 to Konishi et al ("the Konishi patent"). In response, Applicant has amended independent claim 1 as mentioned above.

More specifically, independent claim 1 has been amended to recite that the combination calculation is conducted with ***only*** the hoppers of the second group. Clearly this arrangement is ***not*** disclosed or suggested by the Douglas patent, the Konishi patent, or any other prior art of record.

Discussion regarding the Douglas patent has been advance above. Applicant believes that the Douglas patent does not disclose or suggest the arrangement of now-amended claim 1.

Applicant believes that the Konishi patent does not cure the deficiency of the Douglas patent. The Konishi patent was cited in the Office Action to show the use of continuous discharge mode. The Konishi patent does not disclose or suggest dividing the hoppers into first and second groups to accommodate different types of articles, as required by claim 1. Thus, the Konishi patent cannot disclose or suggest combination calculation required by now-amended claim 1. Therefore, the Konishi patent does not disclose or suggest the arrangement of claim 1 as now amended whether taken singularly or in combination with the Douglas patent.

Claims 10-11 depend from claim 1, and are therefore narrower. Accordingly, claims 10 and 11 are not anticipated or rendered obvious by the Douglas patent and the Konishi patent.

Applicant respectfully requests that this rejection be withdrawn in view of the above comments and amendments.

Allowable Subject Matter

On page 1 of the Office Action, claims 6, 9, 18 were indicated as containing allowable subject matter. Also, during the personal interview on October 20, 2003, it has been agreed that claim 4 is allowable. Applicant wishes to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application. Applicant believes that, since claim 4 is allowable, claim 5, which depends from claim 4, is also allowable. Furthermore, Applicant believes that claims 1 and 12 as now amended, from which claims 6, 9, and 18 depend, are allowable. Accordingly, Applicant believes that claims 6, 9, 18 continue to be allowable.

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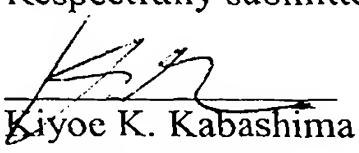
In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-20 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,



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